

2001 Regular Session  
11r0994

Assigned to: Judicial Proceedings

27 (I) HOME DETENTION;



1 (II) A CORRECTIONS OPTIONS PROGRAM ESTABLISHED UNDER THE  
2 CODE OR BY COUNTY ORDINANCE THAT REQUIRES THE INDIVIDUAL TO PARTICIPATE  
3 IN HOME DETENTION, INPATIENT TREATMENT, OR OTHER SIMILAR PROGRAM  
4 INVOLVING TERMS AND CONDITIONS THAT CONSTITUTE THE EQUIVALENT OF  
5 CONFINEMENT; OR

6 (III) INPATIENT DRUG OR ALCOHOL TREATMENT.

7 (2) "CUSTODIAL CONFINEMENT" DOES NOT INCLUDE IMPRISONMENT.

8 (B) (1) The courts may suspend sentence generally or for a definite time, and  
9 may make such orders and impose such terms as to costs, recognizance for  
10 appearance, or matters relating to the residence or conduct of the convicts as may be  
11 deemed proper; and if the convict is a person under 18 years of age, the courts may  
12 also make such orders as to his detention in any care or custody as may be deemed  
13 proper.

14 (2) In Charles County, St. Mary's County, and Calvert County, the court  
15 may impose a sentence of [confinement] IMPRISONMENT as a condition of probation.

16 (3) AS A CONDITION OF A SUSPENDED SENTENCE, THE COURT MAY  
17 ORDER A PERSON TO A TERM OF CUSTODIAL CONFINEMENT.

18 [(b)] (C) However, when the conviction is for violation of § 21-902(a) or (b) of  
19 the Transportation Article, if the court places the person on probation, it shall require,  
20 as a condition of the suspension of sentence, that the person participate in an alcohol  
21 treatment or education program approved by the Department of Health and Mental  
22 Hygiene, unless the court finds and affirmatively states on the record that the  
23 interests of the person and the people of the State do not require the imposition of this  
24 condition.

25 [(c)] (D) In Prince George's County, the courts may also impose such sentences  
26 as may be provided by law with respect to the offense upon which an accused has been  
27 convicted and cause the convict to serve the sentence by attendance at the county  
28 detention center or place of confinement under the jurisdiction of the sheriff, where  
29 the sentence is to be performed during any 48-hour period, in any 7-day period, with  
30 each period of confinement to constitute not less than 2 days of the sentence imposed;  
31 provided, however, that the offense leading to such conviction shall permit  
32 confinement in the county detention center and the total sentence imposed by the  
33 judge may not exceed 30 2-day periods of confinement.

34 [(d)] (E) When the conviction is for violation of any provision of §§ 276 through  
35 303 of this article, if the court places the person on probation, it shall require, as a  
36 condition of the suspension of sentence, that the person participate in a drug  
37 treatment or education program approved by the Department of Health and Mental  
38 Hygiene, unless the court finds and affirmatively states on the record that the  
39 interests of the person and the people of the State do not require the imposition of this  
40 condition.



1 641.

2 (a) (1) IN THIS SECTION, "CUSTODIAL CONFINEMENT" MEANS:

3 (I) HOME DETENTION;

4 (II) A CORRECTIONS OPTIONS PROGRAM ESTABLISHED UNDER THE  
5 CODE OR BY COUNTY ORDINANCE THAT REQUIRES THE INDIVIDUAL TO PARTICIPATE  
6 IN HOME DETENTION, INPATIENT TREATMENT, OR OTHER SIMILAR PROGRAM  
7 INVOLVING TERMS AND CONDITIONS THAT CONSTITUTE THE EQUIVALENT OF  
8 CONFINEMENT; OR

9 (III) INPATIENT DRUG OR ALCOHOL TREATMENT.

10 (2) "CUSTODIAL CONFINEMENT" DOES NOT INCLUDE IMPRISONMENT.

11 (B) (1) (i) 1. Whenever a person accused of a crime pleads guilty or nolo  
12 contendere or is found guilty of an offense, a court exercising criminal jurisdiction, if  
13 satisfied that the best interests of the person and the welfare of the people of the  
14 State would be served thereby, and with the written consent of the person after  
15 determination of guilt or acceptance of a nolo contendere plea, may stay the entering  
16 of judgment, defer further proceedings, and place the person on probation subject to  
17 reasonable terms and conditions as appropriate. The terms and conditions may  
18 include ordering the person to pay a fine or pecuniary penalty to the State, or to make  
19 restitution, but before the court orders a fine, pecuniary penalty, or restitution the  
20 person is entitled to notice and a hearing to determine the amount of the fine,  
21 pecuniary penalty, or restitution, what payment will be required, and how payment  
22 will be made. The terms and conditions also may include any type of rehabilitation  
23 program or clinic, or similar program, or the parks program or voluntary hospital  
24 program.

25 2. In Allegany County, Calvert County, Charles County,  
26 Garrett County, Howard County, and St. Mary's County, the court may impose a  
27 sentence of [confinement] IMPRISONMENT as a condition of probation.

28 3. AS A CONDITION OF PROBATION, THE COURT MAY ORDER  
29 A PERSON TO A TERM OF CUSTODIAL CONFINEMENT.

30 (ii) However, when the offense for which the judgment is being  
31 stayed is for violation of any provision of § 21-902 of the Transportation Article, the  
32 court:

33 1. Shall impose a period of probation and, as a condition of  
34 the probation, require the person to participate in an alcohol treatment or education  
35 program approved by the Department of Health and Mental Hygiene, unless the court  
36 finds and affirmatively states on the record that the interests of the person and the  
37 people of the State do not require the imposition of this condition; and



1                     2.       May, as a condition of probation, prohibit the person from  
2 operating a motor vehicle unless the motor vehicle is equipped with an ignition  
3 interlock system under § 27-107 of the Transportation Article.

(iii) When the offense for which the judgment is being stayed is for a violation of any provision of §§ 276 through 303 of this article, the court shall require the person to participate in a drug treatment or education program approved by the Department of Health and Mental Hygiene, unless the court finds and affirmatively states on the record that the interests of the person and the people of the State do not require the imposition of this condition.

10 (iv) Any fine or pecuniary penalty imposed as a term or condition of  
11 probation shall be within the amount prescribed by law for a violation resulting in  
12 conviction.

(2) Notwithstanding paragraph (1) of this subsection, a court may not stay the entering of judgment and place a person on probation for a violation of any provision of § 21-902 of the Transportation Article if the person has been convicted under, or has been placed on probation under this section after being charged with a violation of, § 21-902 of the Transportation Article within the preceding 5 years.

18 (3) Notwithstanding paragraph (1) of this subsection, a court may not  
19 stay the entering of judgment and place a person on probation for a second or  
20 subsequent controlled dangerous substance offense under §§ 276 through 303 of this  
21 article.

22 (4) Notwithstanding paragraph (1) of this subsection, a court may not  
23 stay the entering of judgment and place a person on probation for a violation of any of  
24 the provisions of §§ 462 through 464B of this article for an offense involving a person  
25 under the age of 16 years.

(5) By consenting to and receiving a stay of entering of the judgment as provided by this subsection, the person waives the right to appeal from the judgment of guilt by the court at any time. Prior to the person consenting to the stay of entering of the judgment, the court shall notify the person that by consenting to and receiving a stay of entry of judgment, the person waives the right to appeal from the judgment of guilt by the court at any time.

32        [b)]        (C)        Upon violation of a term or condition of probation, the court may  
33 enter judgment and proceed with disposition of the person as if the person had not  
34 been placed on probation.

35       [(c)]       (D)       Upon fulfillment of the terms and conditions of probation, the court  
36 shall discharge the person from probation. The discharge is final disposition of the  
37 matter. Discharge of a person under this section shall be without judgment of  
38 conviction and is not a conviction for purposes of any disqualification or disability  
39 imposed by law because of conviction of crime.



1 641A.

2 (a) (1) IN THIS SECTION, "CUSTODIAL CONFINEMENT" MEANS:

3 (I) HOME DETENTION;

4 (II) A CORRECTIONS OPTIONS PROGRAM ESTABLISHED UNDER THE  
5 CODE OR BY COUNTY ORDINANCE THAT REQUIRES THE INDIVIDUAL TO PARTICIPATE  
6 IN HOME DETENTION, INPATIENT TREATMENT, OR OTHER SIMILAR PROGRAM  
7 INVOLVING TERMS AND CONDITIONS THAT CONSTITUTE THE EQUIVALENT OF  
8 CONFINEMENT; OR

9 (III) INPATIENT DRUG OR ALCOHOL TREATMENT.

10 (2) "CUSTODIAL CONFINEMENT" DOES NOT INCLUDE IMPRISONMENT.

11 (B) (1) Upon entering a judgment of conviction, the court having jurisdiction  
12 may suspend the imposition or execution of sentence and place the defendant on  
13 probation upon such terms and conditions as the court deems proper.

14 (2) In Charles County, St. Mary's County, Cecil County, Harford County,  
15 and Calvert County, the court may impose as a condition of probation a sentence of  
16 [confinement] IMPRISONMENT.

17 (3) AS A CONDITION OF PROBATION, THE COURT MAY ORDER A  
18 DEFENDANT TO A TERM OF CUSTODIAL CONFINEMENT.

19 [(3)] (4) The court may impose a sentence for a specified period and  
20 provide that a lesser period be served in confinement, suspend the remainder of the  
21 sentence and grant probation for a period longer than the sentence but not in excess  
22 of 5 years.

23 [(4)] (5) However, if the defendant consents in writing, the court may  
24 grant probation in excess of 5 years, but only for purposes of making restitution.

25 (b) Probation may be granted whether the offense is punishable by fine or  
26 imprisonment or both. If the offense is punishable by both fine and imprisonment, the  
27 court may impose a fine and place the defendant on probation as to the imprisonment.  
28 Probation may be limited to one or more counts or indictments, but, in the absence of  
29 express limitation, shall extend to the entire sentence and judgment. The court may  
30 revoke or modify any condition of probation or may reduce the period of probation.

31 (c) If a sentence of imprisonment is imposed, a portion of it is suspended, and  
32 the defendant is placed on probation, the court may impose as a condition of probation  
33 that the probation commence on the date the defendant is actually released from  
34 imprisonment.

35 (d) When the probation granted is for violation of any provision of §§ 276  
36 through 303 of this article, if the court places the person on probation, it shall require,  
37 as a condition of the suspension of sentence, that the person participate in a drug



1 treatment or education program approved by the Department of Health and Mental  
2 Hygiene, unless the court finds and affirmatively states on the record that the  
3 interests of the person and the people of the State do not require the imposition of this  
4 condition.

5 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
6 read as follows:

7 **Article - Criminal Procedure**

8 6-219.

9 (a) (1) IN THIS SECTION, "CUSTODIAL CONFINEMENT" MEANS:

10 (I) HOME DETENTION;

11 (II) A CORRECTIONS OPTIONS PROGRAM ESTABLISHED UNDER THE  
12 CODE OR BY COUNTY ORDINANCE THAT REQUIRES THE INDIVIDUAL TO PARTICIPATE  
13 IN HOME DETENTION, INPATIENT TREATMENT, OR OTHER SIMILAR PROGRAM  
14 INVOLVING TERMS AND CONDITIONS THAT CONSTITUTE THE EQUIVALENT OF  
15 CONFINEMENT; OR

16 (III) INPATIENT DRUG OR ALCOHOL TREATMENT.

17 (2) "CUSTODIAL CONFINEMENT" DOES NOT INCLUDE IMPRISONMENT.

18 (B) Subject to subsection (b) of this section, a court:

19 (1) may suspend a sentence generally or for a definite time;

20 (2) may pass orders and impose terms as to costs, recognizance for  
21 appearance, or matters relating to the residence or conduct of the defendant who is  
22 convicted as may be deemed proper; [or]

23 (3) if the defendant who is convicted is under 18 years of age, may order  
24 confinement in any care or custody as may be deemed proper; OR

25 (4) MAY ORDER A PERSON TO A TERM OF CUSTODIAL CONFINEMENT AS  
26 A CONDITION OF A SUSPENDED SENTENCE.

27 [(b)] (C) (1) If the court places on probation a defendant who has been  
28 convicted of a violation of § 21-902(a) or (b) of the Transportation Article, the court  
29 shall require as a condition that the defendant participate in an alcohol treatment or  
30 education program approved by the Department of Health and Mental Hygiene,  
31 unless the court finds and states on the record that the interests of the defendant and  
32 the public do not require the imposition of this condition.

33 (2) If the court places on probation a defendant who has been convicted  
34 of a violation of any provision of Article 27, §§ 276 through 303 of the Code, the court  
35 shall require as a condition that the defendant participate in a drug treatment or



1 education program approved by the Department of Health and Mental Hygiene,  
2 unless the court finds and states on the record that the interests of the defendant and  
3 the public do not require the imposition of this condition.

4 [(c)] (D) (1) In Calvert County, Charles County, and St. Mary's County, the  
5 court may impose a sentence of [confinement] IMPRISONMENT as a condition of  
6 probation.

7 (2) In Prince George's County, the court on conviction may sentence a  
8 defendant to the local correctional facility or place of confinement under the  
9 jurisdiction of the sheriff, if:

10 (i) the sentence is to be performed during any 48-hour period in a  
11 7-day period, with each period of confinement to be not less than 2 days of the  
12 sentence imposed;

13 (ii) the crime leading to the conviction allows confinement in the  
14 local correctional facility; and

15 (iii) the total sentence does not exceed 30 two-day periods of  
16 confinement.

17 6-220.

18 (a) (1) IN THIS SECTION, "CUSTODIAL CONFINEMENT" MEANS:

19 (I) HOME DETENTION;

20 (II) A CORRECTIONS OPTIONS PROGRAM ESTABLISHED UNDER THE  
21 CODE OR BY COUNTY ORDINANCE THAT REQUIRES THE INDIVIDUAL TO PARTICIPATE  
22 IN HOME DETENTION, INPATIENT TREATMENT, OR OTHER SIMILAR PROGRAM  
23 INVOLVING TERMS AND CONDITIONS THAT CONSTITUTE THE EQUIVALENT OF  
24 CONFINEMENT; OR

25 (III) INPATIENT DRUG OR ALCOHOL TREATMENT.

26 (2) "CUSTODIAL CONFINEMENT" DOES NOT INCLUDE IMPRISONMENT.

27 (B) (1) When a defendant pleads guilty or nolo contendere or is found guilty  
28 of a crime, a court may stay the entering of judgment, defer further proceedings, and  
29 place the defendant on probation subject to reasonable conditions if:

30 (i) the court is satisfied that the best interests of the defendant  
31 and the public welfare would be served; and

32 (ii) the defendant gives written consent after determination of guilt  
33 or acceptance of a nolo contendere plea.

34 (2) Subject to paragraphs (3) and (4) of this subsection, the conditions  
35 may include an order that the defendant:



1 (i) pay a fine or monetary penalty to the State or make restitution;  
2 or

3 (ii) participate in a rehabilitation program, the parks program, or a  
4 voluntary hospital program.

5 (3) Before the court orders a fine, monetary penalty, or restitution, the  
6 defendant is entitled to notice and a hearing to determine the amount of the fine,  
7 monetary penalty, or restitution, what payment will be required, and how payment  
8 will be made.

9 (4) Any fine or monetary penalty imposed as a condition of probation  
10 shall be within the amount set by law for a violation resulting in conviction.

11 (5) AS A CONDITION OF PROBATION, THE COURT MAY ORDER A PERSON  
12 TO A TERM OF CUSTODIAL CONFINEMENT.

13 [(b)] (C) (1) When the crime for which the judgment is being stayed is for a  
14 violation of § 21-902 of the Transportation Article, the court shall impose a period of  
15 probation and, as a condition of the probation:

16 (i) shall require the defendant to participate in an alcohol  
17 treatment or education program approved by the Department of Health and Mental  
18 Hygiene, unless the court finds and states on the record that the interests of the  
19 defendant and the public do not require the imposition of this condition; and

20 (ii) may prohibit the defendant from operating a motor vehicle  
21 unless the motor vehicle is equipped with an ignition interlock system under § 27-107  
22 of the Transportation Article.

23 (2) When the crime for which the judgment is being stayed is for a  
24 violation of any provision of Article 27, §§ 276 through 303 of the Code, the court shall  
25 impose a period of probation and, as a condition of probation, require the defendant to  
26 participate in a drug treatment or education program approved by the Department of  
27 Health and Mental Hygiene, unless the court finds and states on the record that the  
28 interests of the defendant and the public do not require the imposition of this  
29 condition.

30 [(c)] (D) Notwithstanding subsections [(a)] (B) and [(b)] (C) of this section, a  
31 court may not stay the entering of judgment and place a defendant on probation for:

32 (1) a violation of § 21-902 of the Transportation Article, if within the  
33 preceding 5 years the defendant has been convicted under or has been placed on  
34 probation under that section after being charged with a violation of § 21-902 of the  
35 Transportation Article;

36 (2) a second or subsequent controlled dangerous substance crime under  
37 Article 27, §§ 276 through 303 of the Code; or



1 (3) a violation of any of the provisions of Article 27, §§ 462 through 464B  
2 of the Code for a crime involving a person under the age of 16 years.

3 [(d)] (E) (1) By consenting to and receiving a stay of entering of the  
4 judgment as provided by subsections [(a)] (B) and [(b)] (C) of this section, the  
5 defendant waives the right to appeal at any time from the judgment of guilt.

6 (2) Before granting a stay, the court shall notify the defendant of the  
7 consequences of consenting to and receiving a stay of entry of judgment under  
8 paragraph (1) of this subsection.

9 [(e)] (F) On violation of a condition of probation, the court may enter  
10 judgment and proceed as if the defendant had not been placed on probation.

11 [(f)] (G) (1) On fulfillment of the conditions of probation, the court shall  
12 discharge the defendant from probation.

13 (2) The discharge is a final disposition of the matter.

14 (3) Discharge of a defendant under this section shall be without  
15 judgment of conviction and is not a conviction for the purpose of any disqualification  
16 or disability imposed by law because of conviction of a crime.

17 [(g)] (H) In Allegany County, Calvert County, Charles County, Garrett County,  
18 Howard County, and St. Mary's County, the court may impose a sentence of  
19 confinement as a condition of probation.

20 6-225.

21 (a) (1) IN THIS SECTION, "CUSTODIAL CONFINEMENT" MEANS:

22 (I) HOME DETENTION;

23 (II) A CORRECTIONS OPTIONS PROGRAM ESTABLISHED UNDER THE  
24 CODE OR BY COUNTY ORDINANCE THAT REQUIRES THE INDIVIDUAL TO PARTICIPATE  
25 IN HOME DETENTION, INPATIENT TREATMENT, OR OTHER SIMILAR PROGRAM  
26 INVOLVING TERMS AND CONDITIONS THAT CONSTITUTE THE EQUIVALENT OF  
27 CONFINEMENT; OR

28 (III) INPATIENT DRUG OR ALCOHOL TREATMENT.

29 (2) "CUSTODIAL CONFINEMENT" DOES NOT INCLUDE IMPRISONMENT.

30 (B) (1) (i) Probation may be granted whether the crime is punishable by  
31 fine or imprisonment or both.

32 (ii) If the crime is punishable by both fine and imprisonment, the  
33 court may impose a fine and place the defendant on probation as to the imprisonment.

34 (iii) Probation may be limited to one or more counts or indictments  
35 but, in the absence of express limitation, extends to the entire sentence and judgment.



1 (iv) The court may revoke or modify a condition of probation or may  
2 reduce the period of probation.

3 (V) AS A CONDITION OF PROBATION, THE COURT MAY ORDER A  
4 DEFENDANT TO A TERM OF CUSTODIAL CONFINEMENT.

5 (2) If a sentence of imprisonment is imposed and a part of it is suspended  
6 with the defendant placed on probation, the court may impose as a condition of  
7 probation that the probation begin on the day the defendant is released from  
8 imprisonment.

9 [(b)] (C) If the court places on probation a defendant who has been convicted  
10 of a violation of any provision of Article 27, §§ 276 through 303 of the Code, the court  
11 shall require as a condition that the defendant participate in a drug treatment or  
12 education program approved by the Department of Health and Mental Hygiene,  
13 unless the court finds and states on the record that the interests of the defendant and  
14 the public do not require the imposition of this condition.

15 [(c)] (D) In Calvert County, Cecil County, Charles County, Harford County,  
16 and St. Mary's County, the court may impose a sentence of confinement as a condition  
17 of probation.

18 SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act is an  
19 emergency measure, is necessary for the immediate preservation of the public health  
20 and safety, has been passed by a yea and nay vote supported by three-fifths of all the  
21 members elected to each of the two Houses of the General Assembly, and Section 1 of  
22 this Act shall take effect from the date it is enacted. It shall remain effective until the  
23 taking effect of Section 2 of this Act. If Section 2 of this Act takes effect, Section 1 of  
24 this Act shall be abrogated and of no further force and effect.

25 SECTION 4. AND BE IT FURTHER ENACTED, That, subject to the provisions  
26 of Section 3 of this Act, this Act shall take effect October 1, 2001.